



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,848	03/08/2001	Christopher Keith	IVEN125462	1156

52531 7590 01/03/2007
CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

EXAMINER

ALPERT, JAMES M

ART UNIT	PAPER NUMBER
----------	--------------

3693

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/801,848	KEITH, CHRISTOPHER	
	Examiner	Art Unit	
	James Alpert	3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-108 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-108 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Restriction Requirement

Restriction to one of the following inventions is required under 35 U.S.C. 121:

Invention 1. Claims 1-99, drawn to a method for facilitating trading on a platform supporting multiple processes, classified in class 705, subclass 37.

Invention 2. Claims 100-108, drawn to a method of facilitating trading, classified in class 705, subclass 37.

The inventions are distinct, each from the other because of the following reasons. Inventions 1 and 2 are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable.

In the instant case, subcombination 1 has separate utility such as:

automatically enabling at least two trading processes to trade with each other at the market processes according to the respective market methodologies.

Invention 2 has separate utility such as:

operating a representation process for selectively transmitting an order action between the market process and an external market.

See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a

continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Because these inventions are distinct for being separately usable, as shown above, examining the inventions together would require searching for a reference to teaching the unique element of each invention that is not found in the remaining inventions. This would be quite burdensome, requiring multiple searches, and thus the restriction for examination purposes, as indicated, is proper.

Election of Species

In addition to the groups defined above, this application contains claims directed to patentably distinct species. In the event that Applicant decides to prosecute Invention 1, it is further required that Applicant elect between species as follows:

Species (a), as defined by Claim 2, drawn to a method wherein each market methodology is defined by setting parameters independently of the parameters set for other market processes.

Species (b), as defined by Claim 3, drawn to a method wherein each market methodology is defined by setting parameters independently of the parameters set for other market processes.

Species (c), as defined by Claim 4, drawn to a method wherein each trading process has a trading methodology defined by setting parameters independently of the parameters set for other trading processes.

Species (d), as defined by Claim 5, drawn to a method wherein, each trading process has a trading methodology, and at least one of the trading methodologies is different from another of the trading methodologies.

Species (e), as defined by Claim 6, drawn to a method wherein each of the market processes lacks custom code from a user of the respective market process.

Species (f), as defined by Claim 7, drawn to a method wherein at least one of the market processes includes custom code from a user of the respective market process.

Species (g), as defined by Claim 8, drawn to a method wherein each of the trading processes lacks custom code from a user of the respective trading process.

Species (h), as defined by Claim 9, drawn to a method wherein at least one of the trading processes includes custom code from a user of the respective trading process.

Species (i), as defined by Claims 10-18, drawn to a method wherein the market methodologies and the trading methodologies each incorporate a respective decision table having at least two rules specifying at least one of a discovery strategy and an order handling strategy, each rule having at least one condition and at least one action to be taken when the condition is satisfied.

Species (j), as defined by Claims 19-27, drawn to a method wherein each of the trading processes has a respective order routing strategy for automatically routing orders from the respective trading process to the at least two market processes.

Species (k), as defined by Claim 28, drawn to a method wherein at least one of the market processes represents an informal market.

Species (l), as defined by Claims 29-32, drawn to a method wherein each trading methodology includes a price discovery methodology and an action methodology.

Species (m), as defined by Claims 33-39, drawn to a method further comprising automatically operating at least one data provider process on the platform.

Species (n), as defined by Claims 40-46, drawn to a method further comprising automatically maintaining a file including status of each of the market processes.

Species (o), as defined by Claims 47-52, drawn to a method further comprising automatically maintaining a file including the status of orders represented at each of the market processes.

Species (p) as defined by Claims 53-61, drawn to a method wherein an order from one of the trading processes is represented in each of the least two market processes, and further comprising automatically ensuring the order is executable in at most one of the first and second market processes.

Species (q) as defined by Claims 62-66, drawn to a method wherein an order from one of the trading processes is represented in each of the least two market processes, and further comprising automatically ensuring the order is executable in at most one of the first and second market processes.

Species (r) as defined by Claims 67-72, drawn to a method further comprising automatically receiving a timer request for a short term option expiration from one of the market processes, and automatically setting a timer to indicate the short term option expiration time.

Species (s) as defined by Claims 73-83, drawn to a method further comprising automatically receiving a list of orders, each order including an item and associated price and associated quantity, automatically determining whether all of the orders on the list are executable at the respective prices, and automatically deciding whether to execute all of the orders on the list based on the determination.

Species (t) as defined by Claim 84-99, drawn to a method further comprising automatically capturing a trade between two of the trading processes, and automatically updating a preference rating based on the trade.

Summary and Reminders

Applicant must elect between Inventions 1 and 2. If Applicant elects Invention 1, Applicant must further elect one of the 18 distinct species listed above.

As to species election, Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Claim 1 is generic as to Invention 1.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Generally, the election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. Applicant is reminded that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed. Please see 37 CFR 1.143.

Applicant is reminded that a shortened statutory period for response to this action is set to expire 30 (thirty) days from the mail date of this letter. Failure to respond within the period for response will result in abandonment of the application. See 35 U.S.C 133, MPEP §'s 710.02, 710.02(b).

Conclusion

No telephone communication was placed regarding this election due to the complex nature of this application and election. See MPEP §812.01.

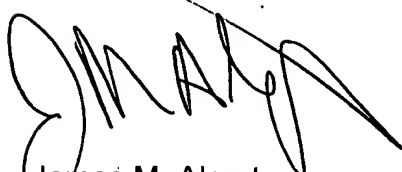
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Alpert whose telephone number is (571) 272-6738. The examiner can normally be reached on M-F 9:00-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer

Application/Control Number:
09/801,848
Art Unit: 3693

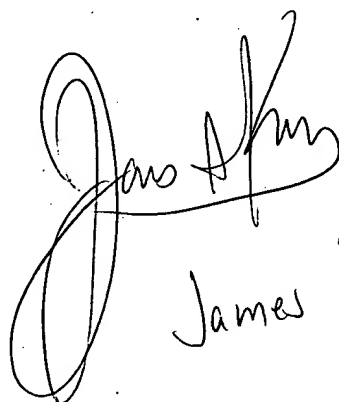
Page 7

can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000. Respectfully,



James M. Alpert
December 21, 2006



12/22/06
James Kramer